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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	Attn: Technology Center Director
Tomas Gandemo	)	Group Art Unit: 3761
Application No.: 10/717,541	)	Examiner: J. F. Stephens
Filed: November 21, 2003	)	Confirmation No.: 7964
For: ABSORBENT ARTICLE WITH	)	
IMPROVED CLOSING MECHANISM	)	

**PETITION UNDER 37 CFR 1.181(A) TO VACATE FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Commissioner under 37 CFR 1.181(a) to vacate the Final Office Action issued August 11, 2005, in the above-captioned application as premature. This petition is timely in that it is being filed within two months of the mailing date of the Final Office Action.

The above-referenced application as originally filed included claims 1-6. As evidenced by the attached photocopy of the postcard receipt (Exhibit A), the submission on November 21, 2003 included:

- (1) Utility Patent Application Transmittal;
  - (2) Specification (8 total pages, including 1 page of claims numbered 1-6; 2 pages of drawings, Figs. 1-2; and a 1 page Abstract) (*see*, Exhibit B);
  - (3) an unexecuted Declaration/Power of Attorney;
  - (4) an Information Disclosure Statement with 4 documents;
  - (5) a form PTO-1449;
  - (6) a check in the amount of \$770.00;
  - (7) a Translation of the Prior-filed Provisional Application and Statement of Accuracy;
- and
- (8) copy of an International Search Report dated 23 May 2003.

It appears that due to an error on the part of the U.S. Patent and Trademark Office (PTO), the eight-page specification (including one page of claims (nos. 1-6), an one page Abstract and two sheets of drawings) were not properly scanned. According to PAIR, the file on record in the PTO contains only the English translation of the provisional Application Serial No. 60/428,239, which contained claims numbered 1-4. More particularly, it appears the Certificate cover page from the verified translation was scanned as the last page of the Transmittal Letter.

Applicant recognized this error after the first Official Action, and in the Amendment submitted May 24, 2005, submitted the following remarks:

“At the outset, Applicants would like to point out that the present application **as filed** included six claims -- not four. In reviewing the above Office Action, it appears that the Examiner inadvertently considered the claims of the Verified Translation of the Provisional Application, rather than the specification and claims as filed on November 21, 2003. Accordingly, reconsideration of all pending claims is in order.” (Emphasis added).

Despite Applicant's request, the Examiner nevertheless considered claims 5 and 6 as newly submitted and issued a Final Rejection on August 11, 2005. Applicant respectfully submits that the August 11, 2005, Official Action is the first treatment on the merits of claims 5 and 6, and as such, it should not be a final Official Action. The failure of the Examiner to previously consider claims 5 and 6 appears to be due to a Patent Office scanning error, and the Applicants should not be prejudiced by this error. Further, as the finality of the Official Action limits Applicant's ability to amend the claims in response to the prior art rejections, timely resolution of this matter is sought prior to the deadline for submission of a response. Accordingly, Applicant respectfully petitions the Director to vacate this August 11, 2005 Official Action.

It is not believed that any fee is due with this submission. If the Commissioner determines otherwise, however, the PTO is hereby authorized to charge the undersigned firm's Deposit Account 02-4800 for the petition fee due. This paper is submitted in duplicate.

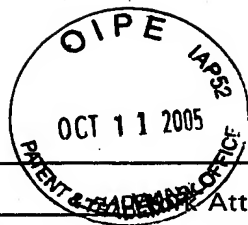
Respectfully submitted,

BUCHANAN INGERSOLL PC  
(INCLUDING ATTORNEYS FROM BURNS DOANE SWECKER & MATHIS)

Date: October 11, 2005

By:   
Wendi Leigh Weinstein  
Registration No. 34,456

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Inventor: Tomas GANDEMOAppln. No. New U.S. ApplicationDocket No.: 018798-181Atty: WLW/mcpDate: November 21, 2003Title: ABSORBENT ARTICLE WITH IMPROVED CLOSING MECHANISM

The following was/were received in the U.S. Patent and Trademark Office on the date stamped hereon:

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> Utility Patent Application Transmittal                           | <input type="checkbox"/> Executed Declaration/Power of Attorney   | <input checked="" type="checkbox"/> Check for \$ <u>770.00</u> is enclosed  |
| <input type="checkbox"/> Design Patent Application Transmittal                                       | <input checked="" type="checkbox"/> Unexecuted Declaration/Power of Attorney                            | <input type="checkbox"/> Check for \$ ___ is enclosed   |
| <input type="checkbox"/> Continuing Prosecution Application Request                                  | <input type="checkbox"/> Assignment/Assignment Recordation Form Cover Sheet (PTO-1595)                  | <input type="checkbox"/> Charge \$ ___ to Deposit Account   |
| <input type="checkbox"/> Provisional Application Cover Sheet   | <input type="checkbox"/> Claim for Convention Priority w/ ___ certified copy(s)                         | <input checked="" type="checkbox"/> Translation of Prior-filed Provisional Application 60/428,239 and Statement of Accuracy |
| <input type="checkbox"/> Provisional Application Transmittal   | <input type="checkbox"/> Preliminary Amendment  | <input checked="" type="checkbox"/> Copy of International Search Report dated 23 May 2003                                   |
| <input type="checkbox"/> Continuation/Divisional Application (Rule 1.53(b)) with copy of application | <input type="checkbox"/> Information Discl. Stmt. Transmittal Letter                                    | <input type="checkbox"/>  |
| <input type="checkbox"/> Request for Continued Examination   | <input checked="" type="checkbox"/> Information Disclosure Citation (PTO-1449)                          | <input type="checkbox"/>  |
| INCLUDING:   | <input checked="" type="checkbox"/> Information Disclosure Statement w/ <u>4</u> document(s)            |   |
| <input checked="" type="checkbox"/> Specification (pages 1 - <u>8</u> )                              | <input type="checkbox"/> Petition for ___ Month Extension of Time                                       |   |
| <input checked="" type="checkbox"/> Claims (claim(s) 1 - <u>6</u> , <u>1</u> pgs.)                   | <input type="checkbox"/> General Authorization for Petitions for Extensions of Time and Payment of Fees |   |
| <input checked="" type="checkbox"/> Drawings (Fig(s). 1 - <u>2</u> , <u>2</u> pgs.)                  | <input type="checkbox"/> Patent Application Data Sheet  |   |
| <input checked="" type="checkbox"/> Abstract of the Disclosure                                       |   |   |



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Inventor: Tomas GANDEMOAppln. No. New U.S. ApplicationDocket No.: 018798-181Work Atty: WLW/mcpDate: November 21, 2003Title: ABSORBENT ARTICLE WITH IMPROVED CLOSING MECHANISM

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| <input type="checkbox"/> Design Patent Application Transmittal                                       | <input checked="" type="checkbox"/> Unexecuted Declaration/Power of Attorney                            | <input type="checkbox"/> Check for \$ ___ is enclosed   |
| <input type="checkbox"/> Continuing Prosecution Application Request                                  | <input type="checkbox"/> Assignment/Assignment Recordation Form Cover Sheet (PTO-1595)                  | <input type="checkbox"/> Charge \$ ___ to Deposit Account   |
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| INCLUDING:   | <input checked="" type="checkbox"/> Information Disclosure Statement w/ <u>4</u> document(s)            |   |
| <input checked="" type="checkbox"/> Specification (pages 1 - <u>8</u> )                              | <input type="checkbox"/> Petition for ___ Month Extension of Time                                       |   |
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| <input checked="" type="checkbox"/> Drawings (Fig(s). 1 - <u>2</u> , <u>2</u> pgs.)                  | <input type="checkbox"/> Patent Application Data Sheet  |   |
| <input checked="" type="checkbox"/> Abstract of the Disclosure                                       |   |   |

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## **ABSORBENT ARTICLE WITH IMPROVED CLOSING MECHANISM**

[0001] This application claims priority under 35 U.S.C. § 119 to U.S. Provisional Application No. 60/428,239 entitled "Absorbent Article With Improved Closing Mechanism" and filed on November 22, 2002, the entire content of which is hereby incorporated by reference.

### **TECHNICAL FIELD**

[0002] The present invention relates to an absorbent article such as a diaper or an incontinence protector designed like underpants. The absorbent article comprises at least a first openable seal line and first and second opening and closing means which are arranged to be able to cooperate with one another when the openable seal line is broken.

### **BACKGROUND ART**

[0003] Absorbent articles designed like underpants, so called diaper pants, have been known for some time. As the name indicates, these articles are designed like shorts or briefs. To make things easier for the user, the articles are often pre-configured like underpants when supplied.

[0004] To make things easier for the user or for nursing staff, parents or the like, the diaper pants are often made up like underpants with the aid of an openable seal line, for example a thermal weld seam, which is expediently arranged at one leg opening of the underpants and extends from the waist line of the underpants down to the leg opening.

[0005] With the aid of the openable seal line, the diaper pants can be opened in order to check whether they have to be changed, for example. If it is found that the diaper pants do not have to be changed, it is necessary to be able to close the diaper again. If the seal line is a thermal weld seam or some other type of closure which cannot be re-closed, the diaper pants would have to be provided with means

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for re-closing them after the seal line has been opened. These means for re-closing the diaper pants are preferably of a type which can be used over again, i.e. permits repeated opening and re-closing in order to check the state of the diaper pants.

[0006] Known solutions to this problem are disclosed in, for example, documents GB 2 267 024 and US 5,370,634. Both of these documents disclose diaper pants with seal lines of the once-only type, where the diaper pants are provided with two-part re-closing means of a type which can be used more than once, for example touch-and-close tapes.

[0007] According to the prior art disclosed in, for example, the two above-mentioned documents, one part of the two-part means for re-closing is arranged on separate flaps which protrude from the natural shape of the underpants, beyond the original seal line, and the second part is arranged on the underpants as a "target area" for the flap.

[0008] The prior art thus has a number of disadvantages: the separate flaps which are used make manufacture of the diaper pants more difficult and thus make production more expensive. In addition, the speed of production is reduced by the diaper pants having to be provided with separate flaps. Moreover, the use of flaps entails increased material consumption in the manufacture of the diaper pants, which makes the product more costly to produce.

#### DISCLOSURE OF THE INVENTION

[0009] There is therefore a need for an absorbent article which can already be in the shape of diaper pants when supplied to the customer, and at the same time the diaper pants in question must be able to be opened and re-closed more easily than in the prior art, and the diaper pants must have a lower production cost than in the prior art.

[0010] This need is satisfied by the present invention which discloses an absorbent article such as a diaper or an incontinence protector, which absorbent

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article is designed like underpants, with a first leg opening and a second leg opening and with a waist opening. The article comprises at least a first openable seal line arranged at the first leg opening, and first and second opening and closing means arranged to be able to cooperate with one another when the openable seal line is broken. The first and second opening and closing means are situated on respective sides of the seal line and are arranged on the surface of the underpants, the first opening and closing means being arranged on the inside of the underpants, and the second opening and closing means being arranged on the outside of the underpants.

[0011] The first and second opening and closing means are expediently arranged substantially parallel to the main line of extent of the seal line.

[0012] This design of an absorbent article according to the invention makes it possible to produce diaper pants which, when supplied to the customer, can be closed along an openable seal line of the once-only type, for example with the aid of a thermal weld seam. On first checking the state of the diaper pants, this seal line is torn open and, if it is necessary to re-close the diaper pants, this is done with the aid of the first and second opening and closing means, which are simply brought toward one another. In a preferred embodiment, the opening and closing means are arranged so that closing can be done by means of the opened edges quite simply being made to overlap and being pressed against one another.

[0013] Thus, by means of the invention, it has become possible to eliminate the need for separate flaps while still obtaining re-closable diaper pants which are less expensive and easier to produce than known diaper pants. Further advantages of the present invention will become apparent from the following detailed description.

#### DESCRIPTION OF THE FIGURES

[0014] The invention will be described below in more detail with reference to the attached drawings, in which:

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Fig. 1 shows an example of an absorbent article according to the invention, and

Fig. 2 shows the article from Fig. 1 in an opened state.

#### EMBODIMENTS

[0015] Fig. 1 shows an absorbent article according to the invention, namely diaper pants 100, in the state in which the article has been made ready for delivery.

[0016] The diaper pants 100 thus comprise a waist opening 110, and a first leg opening 120 and second leg opening 130. At at least one of the leg openings 120, 130, the diaper pants 100 are closed with the aid of an openable seal line 140 which is produced, for example, with the aid of thermal welding, ultrasonic welding or the like.

[0017] When the status of the diaper pants is to be checked for the first time by opening the diaper, the openable seal line 140 is torn open. If it is found that the diaper pants can continue to be used, or for some other reason are not to be removed, it is therefore desirable to be able to close them again at the line defined by the openable seal line 140.

[0018] According to the invention, the diaper pants 100 are provided with first 150 and second 150' opening and closing means which are arranged to be able to cooperate with one another when the openable seal line 140 has been broken.

[0019] According to the invention, the first 150 and second 150' opening/closing means are situated on respective sides of the seal line 140 and are arranged on the surface of the diaper pants, in such a way that the first opening/closing means 150 is arranged on the inside of the underpants and the second opening/closing means 150' is arranged on the outside of the diaper pants.

[0020] It is expedient, but not essential, that the first 150 and second 150' opening/closing means are arranged in immediate proximity to the seal line 140 and expediently run along in principle the same extent as the seal line, in other

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words, as shown in the illustrated embodiment, most of the way from the waist opening 110 to the first leg opening 120. The opening/closing means therefore do not have tabs or flaps protruding from the rest of the diaper pants but instead lie directly on the outside/inside of the diaper pants.

[0021] It is also expedient if the first 150 and second 150' opening/closing means are arranged so that they run parallel to the seal line 140.

[0022] When the seal line 140 has been broken, it is desirable to re-close the diaper pants 100 along essentially the same line by placing the opened edges overlapping so that the first opening/closing means 150 comes into engagement with the second opening/closing means 150'. Thereafter, it is possible, in principle, to open and close the diaper pants any number of times with the aid of these opening/closing means.

[0023] The opening and closing means can of course be any of a large number of different types of opening and closing means without departing from the invention. Examples which may be mentioned, however, are the "hook and loop" type, different types of adhesive surfaces, or surfaces interacting in some other way, and, for example, press buttons. In this connection, the material of all or part of one surface of the diaper pants, expediently the surface facing away from the user, can constitute one of these interacting surfaces, for example the loops in a "hook and loop" system.

[0024] In Fig. 2, the diaper pants 100 from Fig. 1 are shown in the opened state. It will be seen from Fig. 2 that the diaper pants are preferably provided with second opening/closing means 170, 170' at the other leg opening 130. The second opening/closing means 170, 170' correspond largely to the first opening/closing means 150, 150' as regards position and configuration, for which reason the second opening/closing means 170, 170' will not be described in detail here.

[0025] In Fig. 2, the same reference numbers have been used as in Fig. 1 for corresponding parts of the diaper pants 100, except for the fact that the two edges forming the seal line 140 have been designated by 140' and 140'', and

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corresponding edges forming a second seal line (not shown) at the second leg opening have been designated by 160' and 160''.

[0026] The invention is not limited to the illustrative embodiments described above and instead can be freely varied within the scope of the appended patent claims. For example, the opening/closing means do not have to run parallel to the seal lines and instead they can be arranged in numerous different ways in which they can come into engagement with one another.

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WHAT IS CLAIMED:

1. An absorbent article designed like underpants, with a first leg opening, a second leg opening and a waist opening, the absorbent article comprising:  
at least a first openable seal line arranged at the first leg opening, and  
first and second opening and closing means arranged to be able to cooperate with one another when the openable seal line is broken,  
wherein the first and second opening and closing means are situated on respective sides of the first openable seal line and are arranged on a surface of the underpants, the first opening and closing means being arranged on an inside surface of the underpants and the second opening and closing means being arranged on an outside surface of the underpants.
2. The absorbent article as claimed in claim 1, wherein the first and second opening and closing means are arranged substantially parallel to a main line of extent of the first openable seal line.
3. The absorbent article as claimed in claim 1, wherein the first and second opening and closing means comprise touch-and-close tapes.
4. The absorbent article as claimed in claim 1, wherein the first and second opening and closing means comprise adhesive surfaces.
5. The absorbent article as claimed in claim 1, wherein the first openable seal line arranged at the first leg opening defines a substantially linear line.
6. The absorbent article as claimed in claim 1, further comprising a second openable seal line arranged at the second leg opening.

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### ABSTRACT

An absorbent article such as a diaper or an incontinence protector, which absorbent article is designed like underpants, with a first leg opening and a second leg opening and a waist opening. The article includes at least a first openable seal line arranged at the first leg opening, and first and second opening and closing mechanisms arranged to be able to cooperate with one another when the openable seal line is broken. The first and second opening and closing mechanisms are situated on respective sides of the seal line and are arranged on the surface of the underpants, the first opening and closing mechanism being arranged on the inside of the underpants and the second opening and closing mechanism being arranged on the outside of the underpants. The first and second opening and closing mechanisms are expediently arranged substantially parallel to the main line of extent of the openable seal line.

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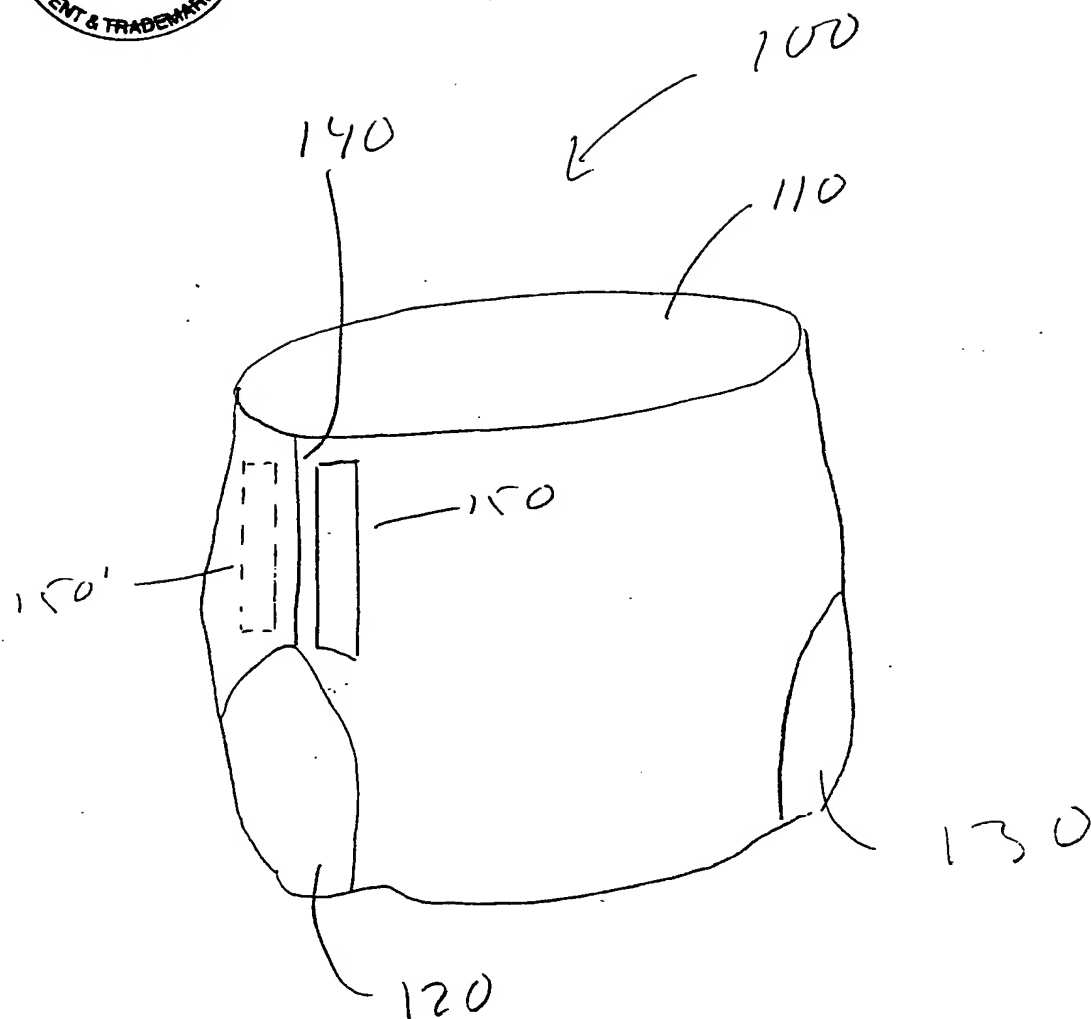


Fig 1

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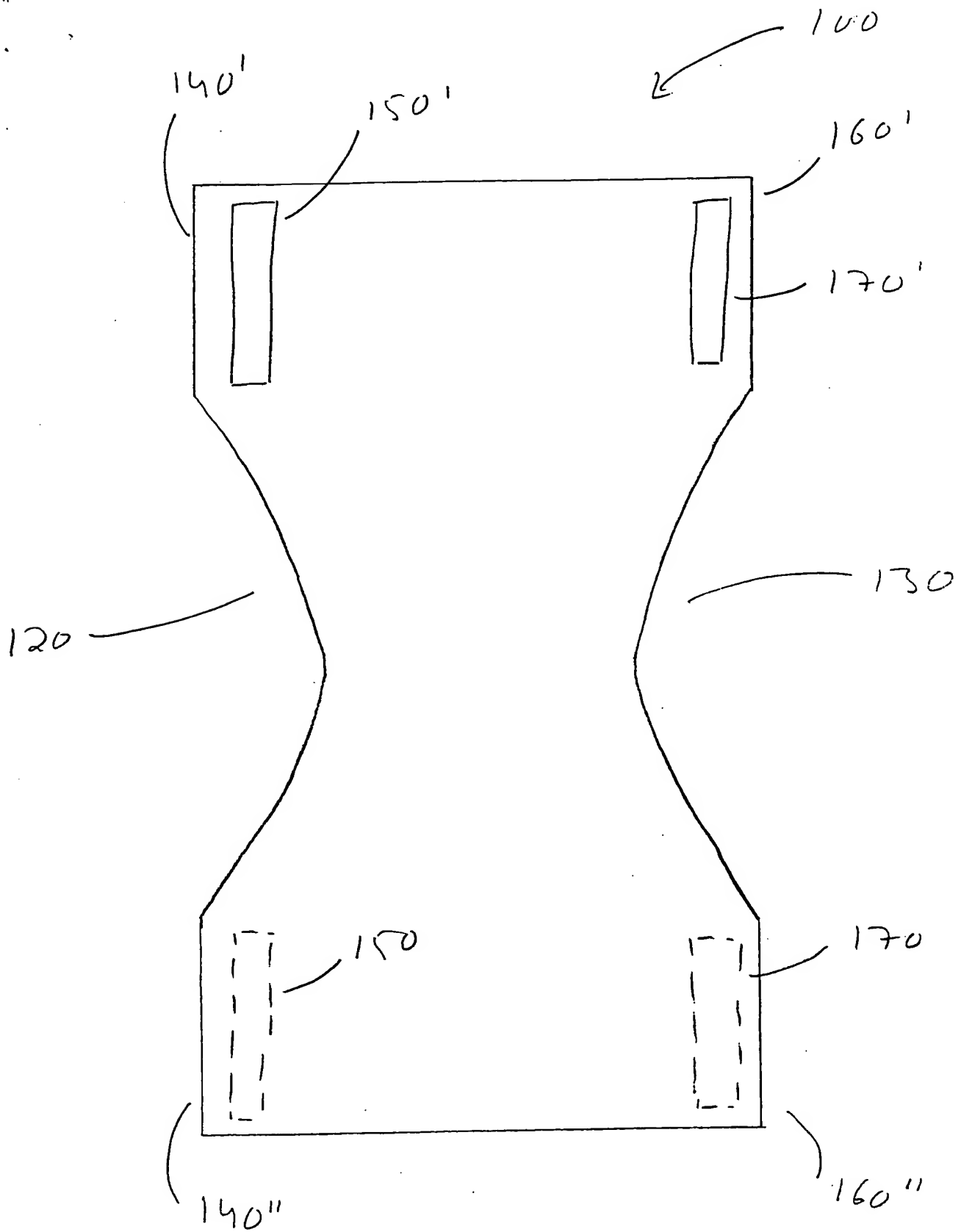


Fig 2

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